DX 2767 Referenced in Pearson Trial Decl.

Memorandum

ORTHO BIOTECH

To: Nephrology Field Sales

Date: November 20, 2001

From:

cc:

Subject: Competitive Position

Numerous reports have surfaced regarding Amgen's attempts to capture market share in key accounts by discussing the difference in AWP pricing between NESP and PROCRIT. By doing so, they seek to entice key accounts to switch products based solely on the difference between AWP price and the cost of acquisition (margin).

Recently, the United States General Accounting Office issued a report on behalf of the House Ways and Means Committee, the Senate Finance Committee and House Committee on Energy and Commerce making recommendations to begin reimbursing providers for part B-covered drugs and related services at levels reflecting providers' acquisition costs.

This would be a departure from the current methodology of using AWP pricing minus 5% as the benchmark for reimbursement.

What does this mean to you?

In the event an account approaches you and wants to discuss "profitability" you should address the issue with facts regarding the changing reimbursement environment and our continued support of Healthcare Compliance initiatives. The government has not yet approved the recommended changes; however, in all likelihood they will be in effect in 2002 or early 2003.

In conclusion, there are several issues that should be discussed with these accounts:

- It is absolutely inappropriate to sell product based upon the difference between AWP and acquisition price
- Reimbursement changes are on the horizon that will affect their decision
- By switching to a more expensive product (NESP), the patients will have to pay a higher co-pay and the healthcare system will have to bear the brunt of a more expensive therapy
- There is a significant cost involved with switching any product, whether it be training or time

DEFENDANT'S EXHIBIT 2767

PENGAD 800-631-6989